IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2069 OF 2006

Nitin Prabhatkar Suvarnapathaki ... Petitioner

Vs.

State of Maharashtra & Anr. ... Respondents

Mr. S.V. Marwadi for the petitioner.

Mr. S.R. Borulkar, Public Prosecutor with Mr. D.R. More, A.P.P. for the State.

Mr. R.M. Upadhyay for respondent 2.

CORAM : SMT. RANJANA DESAI, J.

DATED : 15TH DECEMBER, 2006.

P.C. :-

1. The petitioner has prayed that proceedings in C.C. No.409/PW/2006 pending on the file of the Railway Mobile Court, Andheri, arising out of C.R. No.11/2006 registered under section 379 of the Indian Penal Code (for short, "the IPC") at the Jogeshwari Police Station, Mumbai, may be quashed.

2. I have heard Mr. Marwadi, the learned counsel appearing for the petitioner and Mr. Borulkar, the learned Public Prosecutor for the State.

3. Mr. Marwadi, the learned counsel for the petitioner submitted that the petitioner and respondent 2, who is the complainant, have settled the matter. Respondent 2 has filed an affidavit in this court in which he has stated that he and the petitioner have compromised the matter and, hence, the proceedings may be quashed. He has stated that he has received the stolen property. The learned counsel for respondent 2 has reiterated whatever has been stated in the affidavit filed by respondent 2, before me.

4. It appears that an application to compound the offence was made by the complainant to the trial court. However, the trial court has not decided the said application because the amount involved in the case is more than Rs.2000/-. Under section 320 of the Criminal Procedure Code (for short, "the Cr.P.C."), an offence under section 379 of the IPC can be compounded by the learned Magistrate at the instance of the owner of the stolen property only when the value of the property does not exceed Rs.2000/-. Mr. Marwadi submitted that in view of the fact that the parties have settled the dispute, the proceedings may be quashed. He relied on the judgment of the Supreme Court in ***B.S. Joshi and Others v. State of Haryana & Anr., (2003) 4 SCC 675***, and the judgments of this court in ***(i) Jasmine Vipul Bhatia & Ors. v. State of***

Maharashtra, 2004 All MR (Cri.) 1908, (ii) Mansur A. Khan v. State of Maharashtra & Ors., 2004 All MR (Cri) 1911, and (iii) Bhushan s/o. Subhash Naphade & Ors. v. State of Maharashtra & Anr., 2005 All MR (Cri.) 3041.

4. In view of the fact that the parties have settled the dispute, in the light of the above judgments, the proceedings in C.C. No.409/PW/2006 pending on the file of the Railway Mobile Court, Andheri, arising out of C.R. No.11/2006 registered at Jogeshwari Police Station, Mumbai need to be quashed. Hence, the following order :

5. The proceedings in C.C. No.409/PW/2006 pending on the file of the Railway Mobile Court, Andheri, arising out of C.R. No.11/2006 registered at Jogeshwari Police Station, Mumbai, are quashed and set aside. Petition is disposed of.

[SMT. RANJANA DESAI, J.]